REMARKS

This is a response to the final Office Action dated September 5, 2006. Claims 1-11 and 13-29 were rejected. Claims 1, 6 and the drawings were objected to. Claims 1, 6, 13, 18-19, 20, 23-25, and 28-29 are amended in this response. No claims have been added; no claims have been withdrawn. No new matter is added by way of these amendments. Furthermore, for at least the reasons discussed herein, each of the presently pending claims is now in condition for allowance.

Claim Objections

Claims 1 and 6 are objected to because the Office Action suggested that "physical layer persistent connection" is erroneous in Claim 1 and that the term "capable of" is vague in Claim 6. Claims 1 and 6 have been amended to clarify these objections. No new matter is added by these amendments.

Drawing Objections

The drawings are objected to since they introduce new matter. As said in the previous response to the office action, such features were implicitly disclosed to a skilled person in the description of the running of the proxy application at page 7, line 13 to page 9, line 2. Specifically, it is well known in the art that a "processor is the component that interprets instructions and processes data." It is also known that a processor is "one of the necessary components found in computers." Given that the instructions of the proxy application need to be processed, it is implicit to a skilled person in the art that the network accelerator includes a processor.

Further, memory is well known in the art as "computer components or devices that retain data for some interval of time." It is also known that memory is "one of the fundamental components of all modern computers." Given that the proxy application and the data need to be stored in order to be processed, it is implicit to a skilled person in the art that the network accelerator includes memory.

For these reasons, the processor and memory added to Figure 2 are not new matter and the objection to the drawings is moot and should be withdrawn.

Specification Rejections - 35 U.S.C. § 132(a)

The specification is rejected under 35 U.S.C. 132(a) as introducing new matter into the disclosure. For the reasons explained above in conjunction with the objection to the drawings, the amendment to the specification does not add new matter. The rejection to the specification is now moot and should be withdrawn.

Claim Rejections - 35 U.S.C. § 112, First Paragraph

Claims 25-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Regarding Claim 25, the Office Action alleged that the specification did not disclose the claimed memory or processor. However, for at least the reasons given above in relation to the objections to the drawings, this rejection has been overcome and Claim 25 is now allowable. Claims 26-29 are allowable for at least the same reasons as Claim 25 upon which they depend.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 2, 13-17, 19-22, 24-27 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Bartlett et al. (US 2003/0177396).

Regarding independent, amended Claim 1, Bartlett does not disclose two or more *persistent* Transmission Control Protocol connections (instantiated in parallel) over which packet traffic is striped (divided up and transmitted over two or more TCP connections). See Specification, Page 4, lines 22-27. Bartlett explicitly states "if the VPN connection fails, for example ... interrupted by a network failure, the PEP peers bring down the PEP connections ... preventing waste of resources." (see Bartlett; pg 4, para. 45) Bartlett further discusses the benefits of bringing down

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the PEP connection: "it is desirable for the PEP connection to not be "always on" (see Bartlett; pg 4, para. 47) Further, " the likely scenario is a desire to also not have the VPN connection active when it is not needed since VPN connections also consume network and computing resources" (see Bartlett; pg 4, para. 49). Applicants respectfully hold that Bartlett not only does not teach or suggest multiple persistent connection over which data is striped, he also teaches away from this concept by discussing its undesirability.

The office action further suggests that the single backbone connection of Bartlett into which multiple TCP connections are multiplexed is the claimed physical layer connection. However, Bartlett describes the allocation of resources for multiplexing in a deterministic way, that does not teach or suggest striping packets over two or more persistent TCP connections as claimed. "Dynamic allocation is more complex and can potentially lead to over-commitment of resources and loss of data." (see Bartlett; pg 7, para. 72) In fact, he specifies that multiplexing is used for "significantly reducing the amount of ACK traffic required to maintain high throughput." (see Bartlett, pg 9, para. 99) He further states that "although it is also possible to send segments of the same TCP connection via different paths, this segment "splitting" can have negative side effects." (see Bartlett, pg 10, para. 108). He essentially rejects the notion of striping data over multiple persistent TCP connections. Consequently, Bartlett not only does not teach or suggest striping packets over two or more persistent TCP connections, he also generally teaches away from this concept by discussing negative side effects.

Therefore, based at least on the foregoing reasons, amended Claim 1 is neither anticipated nor obvious in view of Bartlett. Furthermore, dependent Claim 2 is allowable for at least the same reasons as amended Claim 1 upon which it depends.

Also, amended independent Claims 13, 20, and 25 are allowable for substantially the same reasons as amended Claim 1. Thus, Claims 13, 20, and 25 are neither anticipated nor obvious in view of Bartlett. Furthermore, dependent Claims 14-17, 19, 21-22, 24, 26-27, and 29 are allowable for at least the same reasons as the amended independent Claims 13, 20, and 25 upon which they respectively depend.

Claim Rejections - 35 U.S.C. § 103

Claims 3-5, 18, 23 and 28 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Bartlett in views of Dillon et al., (US 6,658,463). Since amended independent Claims 1, 6, 13, 20 and 25 upon which these claims depend are not anticipated by Bartlett for the abovementioned reasons, Claims 3-5, 18, 23 and 28 are also allowable over the suggested combination of references.

Claims 6-11 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Bartlett in views of McCanne et al., (US 20040215746). Regarding amended Claim 6, McCanne appears to disclose that "the TMUX transport distributes network data across multiple, parallel transport connections." (see McCanne, para. 106) However, as discussed above, Bartlett teaches away from the concept of parallel instantiated data paths. Again, "although it is also possible to send segments of the same TCP connection via different paths, this segment "splitting" can have negative side effects." (see Bartlett, pg 10, para. 108). Given Bartlett's statement, there is no motivation to combine these references as Bartlett clearly teaches away from this concept.

Therefore, based at least on the foregoing reasons, Claim 6 is neither anticipated nor obvious over Bartlett in view of McCanne. Furthermore, dependent Claims 7-11 are allowable for at least the same reasons as independent Claim 6 upon which it depends.

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CONCLUSION

This response has addressed fully all of the concerns expressed in the instant Office Action and claims 1-11 and 13-29 are in condition for allowance. Early favorable action is urged. Should any further aspects of the application remain unresolved, the Examiner is invited to telephone the Applicant's attorney at the number listed below.

Dated: November 6, 2006   Respectfully submitted,

By _____

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